

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
_____, ID No.

Telephone Number:

In Re:

Refer Reply To:
CC:INTL:B02
PLR-142351-08

Date:
March 24, 2009

Legend

Taxpayer =

Shareholder =
Tax Professional 1 =
Tax Professional 2 =
Country A =
Date 1 =
Date 2 =
Date 3 =
Date 4 =
Date 5 =
Year 1 =
Year 2 =

Dear _____:

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

This Private Letter Ruling is in response to a letter dated September 22, 2008, submitted on behalf of Taxpayer by its authorized representative, requesting an extension of time under Treas. Reg. § 301.9100-1 to make elections to treat a foreign insurance corporation as a domestic corporation under §953(d) and to be taxed as a small insurance company under §831(b)(2)(A) of the Internal Revenue Code ("Code") for the tax year ending Year 1. The information submitted for consideration is set forth below.

FACTS

Taxpayer is a Country A corporation formed on Date 1 with the purpose of providing property and casualty insurance. Shareholder is a U.S. citizen and has at all times been the sole owner and manager of Taxpayer.

Shareholder hired Tax Professional 1 in Year 2 to prepare Taxpayer's return for Year 1. Tax Professional 1 requested and was granted an extension for filing Taxpayer's Year 1 return. This extension gave Taxpayer until Date 3 to file the Year 1 return. Tax Professional 1 instructed Taxpayer to make elections under §953(d) and §831(b).

Being unfamiliar with the Code, Shareholder retained Tax Professional 2 on Date 2 to provide a second opinion regarding preparation of Taxpayer's Year 1 return. Tax Professional 2 agreed with Tax Professional 1 that the elections under §953(d) and §831(b) were proper. Shareholder signed the Year 1 tax return, but the Shareholder was called away on business before completion of the meeting. However, Tax Professional 2 assured Shareholder that it would timely file the Year 1 return and make the §953(d) and §831(b) elections after it reviewed the necessary forms.

On or about Date 4, Shareholder was informed that Tax Professional 2 failed to mail the Year 1 return with the §953(d) and §831(b) elections. Shareholder then obtained the return from Tax Professional 2 and delivered it to Tax Professional 1. On Date 5, Tax Professional 1 filed the Year 1 return with the above elections; it also filed the 953(d) election pursuant Rev. Proc. 2003-47.

RULING REQUESTED

Taxpayer requests the consent of the Commissioner of the IRS to make retroactive elections under §953(d) and §831(b) of the Code with respect to its Year 1 taxable year.

LAW

Under section 953(d)(1) a foreign insurance company may be treated as a domestic insurance company if four conditions are met:

- (A) a foreign corporation is a controlled foreign corporation (as defined in section 957(a) by substituting "25 percent or more" for "more than 50 percent" and by using the definition of United States shareholder under section 953(c)(1)(A)),
- (B) such foreign corporation would qualify under part I or II of subchapter L for the taxable year if it were a domestic corporation,
- (C) such foreign corporation meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this chapter on such foreign corporation are paid, and

(D) such foreign corporation makes an election to have this paragraph apply and waives all benefits to such corporation granted by the United States under any treaty.

Section 4.04(2) of Rev. Proc. 2003-47 provides that in order for an election for a taxable year, an election under 953(d) must be filed by the due date prescribed in section 6072 of the Code (with extensions) for the U.S. income tax return that is due for that taxable year (with extensions).

Section 831(a) taxes insurance companies other than life insurance companies on their taxable income. However, certain eligible companies can instead elect to pay an alternative tax provided in §831(b) based only on their taxable investment income. See §831(b)(2)(A)(ii). That election is also made on a timely filed return.

Treas. Reg. §301.9100-1(c) provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time, under the rules set forth in Treas. Reg. §301.9100-3, to make a regulatory election under all subtitles of the Code, except subtitles E, G, H, and I.

Treas. Reg. §301-9100-1(b) provides that an election includes an application for relief in respect of tax, and defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treasury Regulation § 301.9100-3(a) provides that requests for extensions of time for regulatory elections that do not meet the requirements of Treas. Reg. § 301.9100-2 must be made under the rules of Treas. Reg. § 301.9100-3. Requests for relief subject to Treas. Reg. § 301.9100-3 will be granted when the taxpayer provides the evidence (including affidavits described in paragraph (e) of this section) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

ANALYSIS

The time and manner for making a section 953(d) election is prescribed in Rev. Proc. 2003-47, which is a regulatory election under Treas. Reg. §301.9100-1(b) falling under the relief provisions of Treas. Reg. §301-9100-3. Under the Regulations described above, the Commissioner has the authority to grant Taxpayer's requested relief.

Based on the facts and representations submitted with Taxpayer's ruling request, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to make the elections under §953(d) and §831(b). Such filing will be treated as a timely election for Taxpayer to be treated as domestic corporation for its first taxable year and an election

to pay an alternative tax provided in §831(b) based only on its taxable investment income.

This ruling is directed only to the Taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. The granting of an extension in this letter is not a determination that Taxpayer is otherwise eligible to make the elections under §953(d) and §831(b). Except as expressly provided herein, we express no or imply no opinion concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

Pursuant to a power of attorney on file in this office, a copy of this letter is being provided to your authorized representative.

Sincerely,

Ethan Atticks
Senior Technical Reviewer
(International)